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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,783

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Ajitabh Prakash Saxena

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05/30/2008

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EXAMINER

CHEN, ALAN S

ART UNIT

PAPER NUMBER

2182

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,783	<b>Applicant(s)</b> SAXENA ET AL.	
	<b>Examiner</b> Alan S. Chen	<b>Art Unit</b> 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 12-16 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 12-16, 23-25 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 4, 26 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to the prior art rejection have been considered but are moot in view of the new ground(s) of rejection.
2. The 35 USC §101 rejection has been vacated.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Per claim 12, 15 and 16 all recite computer-readable medium that is "tangible". However "tangible" is indefinite as to exactly what is tangible. Examiner suggests using the language -computer-readable **storage** medium- to limit the limitations to what one of ordinary skill in the art would construe as concrete and 'tangible'.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3,5,12-16,23-25 and 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat. No. 7,237,101 to Dono et al. (*Dono*).

**Independent Claims**

8. Per claim 1, Dono discloses a computer-implemented method (*fig. 3*) comprising: executing boot-time code stored in a non-volatile store (*fig. 4, item 201*) embedded within a peripheral device (*fig. 2, item 201*), wherein executing the boot-time code (*col.4 l.39-42 disclose hot-plugging of new devices causes process shown in fig. 3*) includes actions of: reading identification numbers from the peripheral device (*fig. 3, item 302 device IDs intrinsically comprise multiple alphanumerics*); determining, from the identification numbers, if the peripheral device may be used with a particular device driver (*fig.3, item 307, determining proper driver version or if it is antiquated*); and in response to a determination that the peripheral device may be used with a particular device driver (*fig 1, when driver version is older*), writing a signature to a configuration space of the peripheral device (*new driver/signature is written to configuration memory/space of fig. 3, item 200*).

9. Per claim 12, Dono discloses claim 1, which is substantially similar and therefore the rejection is applied accordingly.

10. Per claim 23, Dono discloses claim 1, which is substantially similar and therefore the rejection is applied accordingly. Fig.1, item 201 is the nonvolatile memory. Fig. 1, item 202 is the interface.

11. Per claim 27, Dono discloses claim 1, which is substantially similar and therefore the rejection is applied accordingly. Fig. 1 shows the data processing system. The computer intrinsically has a processor and RAM.

**Dependent Claims**

12. Per claims 2 and 3, Dono discloses claim 1, wherein the identification numbers include vendor ID numbers and device ID numbers (*fig. 3, item 302 shows device ID, put there by vendor, device is construed as being part of the subsystem when attached to the system*).

13. Per claim 5, Dono discloses claim 1, further comprising: executing device driver code associated with the particular device driver (*fig. 3, items 307-310*), wherein executing the device driver code includes actions of: determining whether the signature has been written to the configuration space (*fig. 3, item 307*); and in response to a determination that the signature has been written to the configuration space, enabling the device driver (*fig. 3, item 309*).

14. Per claims 13,14 and 16, Dono discloses claims 2,3 and 5 which are substantially similar and therefore the rejections are applied accordingly. The computer program product is shown in fig. 1. One computer-readable medium is on the host end and the other is on the device end.

15. Per claim 15, Dono discloses claim 12, wherein the first computer-readable medium is a non-volatile store associated with the peripheral device (*fig. 2, item 201*).

16. Per claims 24,25,29 and 30 Dono discloses claims 2 and 3, which are substantially similar and therefore the rejections are applied accordingly.

***Allowable Subject Matter***

17. Claims 4,26 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is the statement of reasons for the indication of allowable subject matter: The prior art disclosed by the applicant and cited by the Examiner fail to teach or suggest, alone or in combination, ***all*** the limitations of the independent claim(s) (*claims 1,23 and 27*), particularly the signature being written in a scratchpad register in the configuration space of the peripheral device.

***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan S. Chen whose telephone number is 571-272-4143. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alan S Chen/  
Primary Examiner, Art Unit 2182  
05/08/08